

**Remarks**

The Applicant provides the following remarks in response to the non-final Office Action bearing a mailing date of January 10, 2008. No claims are currently amended or cancelled. Claims 1-16 are currently pending. The Applicant respectfully requests withdrawal of the pending rejections in light of the foregoing amendments and the following remarks.

**Rejection under 35 U.S.C. § 112, First Paragraph**

Claims 1-16 stand rejected for failing to comply with the written description requirement because recitation of "non-pump parameter content" is not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention because it has not been defined. The applicant respectfully traverses this rejection and do not concede any characterizations of the pending application set forth in the office action.

To establish a prima facie case that the claim fails to comply with the written description, the Office Action must establish why one skilled in the art would not recognize the claimed invention in the written description. M.P.E.P. 2163.04. The Office Action merely makes a conclusory statement that "non-pump parameter content" has not been defined nor disclosed in the specification without any explanation as to why one skilled in the art would not recognize the claimed invention.

Furthermore, the specification provides a detailed disclosure of the claimed invention and that demonstrates the Applicant had possession of the claimed invention at the time the application was filed, including the claimed term, "non-pump parameter

content." The following passage on page 11, lines 10-19, was in the specification as it was originally filed:

The home page 152 also presents the name 166 of the active delivery program it is executing and personal information 168 as programmed by the user. In the illustrated example, the personal information it displays is a banner "Mary's Pump," which identifies the owner of the insulin pump 100. Other examples of information that might be included in the personal field includes medical information about the pump user similar to that information included on a medical alert bracelet such as allergies and the fact that the patient is diabetic, more detailed information about the patient including the patient's full name, telephone number, and address, detailed information about the user's caregiver such as the name and telephone number of the user's physician, and a warning that the pump 100 is an insulin pump and should not be removed from the user.

Figure 30E and the accompanying disclosure on page 85, lines 16-21, illustrates and example embodiment for entering text into the banner and explains that the text can include "numbers and letters as desired."

These passages, both separately and together, teach that the banner can comprise non-pump related content and provide a basis for the negative limitation of non-pump parameter content. In fact, the disclosure on page 11 gives explicit examples of non-pump related content including the identification information about the patient/user, identification information of the pump owner, medical information about the patient, identification information about the patient's physician, and warnings about they pump. These teachings demonstrate that the Applicant had possession of the claimed invention, including a banner that displays non-pump related content, at the time the application was filed.

Therefore the Applicant respectfully submits that he had possession of all the claimed elements at the time the application was filed and that "non-pump parameter

content” is fully disclosed and described in the specification. The Applicant requests reconsideration and withdrawal of the pending rejection.

**Rejection under 35 U.S.C. § 103**

**Claims 1-4, 6-10, and 12-16**

Claims 1-4, 6-10, and 12-16 stand rejected as being obvious over Campbell et al. (2005/0137530) and further in view of Malave et al. (2002/0193679). The Applicant respectfully traverses this rejection and does not concede any characterizations of the pending application or the cited references set forth in the office action.

The pending claims relate to programmable pumps and set forth either a pump having a banner or a method of displaying a banner on a pump. The banner comprises user-defined, non-pump parameter content. The specification explains that the user can enter any information into the banner as desired. There is no limitation as to the type of information.

In sharp contrast, Campbell does not disclose a banner that displays user-defined content. It discloses only a status screen that displays the status of various pump functions and parameters. Furthermore, Paragraph 58 as cited in the office action teaches only that the pump can send and receive information such as information, control parameters, programs, and the like. Campbell fails to teach creation or display of a banner comprising user-defined content as set forth in the pending claims.

Malave also fails to teach or otherwise suggest a banner that displays user-defined content. Figures 13 and 14, which were cited in the Office Action, disclose data entry screens on a personal computer that have only predefined—not user defined—fields. For example, the top field requires entry of a patient ID. The second field requires entry of

the patient's first name. The third field requires entry of the patient's last name. The other fields require entry of a pump identifier, a high blood glucose limit, and a low blood glucose limit. There is no discretion as to the type of information entered into these fields.

Furthermore, Malave teaches that the information entered into the fields disclosed in Figures 13 and 14 are for displaying reports on the computer. See [0083]. There is no other teaching in Malave with respect to this information. There certainly is no teaching or suggestion that information entered into these fields is downloaded into the pump itself.

Therefore, no combination of Campbell and Malave will result in a pump having a banner comprising user-defined, non-pump parameter content or a method of displaying such a banner on a pump. The applicant respectfully submits that the claimed invention is patentably distinct from Campbell and Malave and requests withdrawal of the pending rejection.

**Claims 5 and 11**

Claims 5 and 11 stand rejected as being obvious over Campbell, Malave, and further in view of Estes et al. (2003/0114836). The Applicant respectfully traverses this rejection and does not concede any characterizations of the pending application or the cited references set forth in the office action.

The pending claims relate to programmable pumps and set forth either a pump having a banner or a method of displaying a banner on a pump. The banner comprises user-defined, non-pump parameter content. The specification explains that the user can

enter any information into the banner as desired. There is no limitation as to the type of information.

As discussed above, Campbell and Malave both fail to teach or suggest a pump that displays a banner comprising user-defined content.

With respect to Estes, the Office action cites Figure 3A and states that it teaches a banner containing information identifying the caregiver of the programmable pump (Facility Info, Physician Name). However, this information illustrated in Figure 3A appears contained in predefined—not user defined—fields. There is no teaching or suggestion that this information is user defined. Indeed, the discussion of Figure 3A in the specification does not contain any discussion, teaching, or suggestion about this portion of the Figure 3A. See [0054] and [0055].

Therefore, no combination of Campbell, Malave, and Estes will result in a pump having a banner comprising user-defined, non-pump parameter content or a method of displaying such a banner on a pump. The applicant respectfully submits that the claimed invention is patentably distinct from Campbell, Malave, and Estes and requests withdrawal of the pending rejection.

### Conclusion

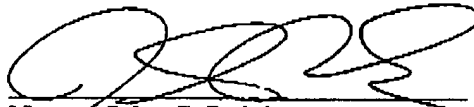
For at least these reasons, the Applicant requests allowance of the pending claims and advancement of this application to issuance. The Applicant notes that there may be additional reasons and arguments in support of patentability for the pending claims and reserves the right to raise any such reason in the future.

Please call the undersigned attorney if there are any questions or if it would be helpful to discuss any issues during the examination of this application.

Respectfully submitted,  
MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date:

*June 10, 2008*

  
Name: John C. Reich  
Reg. No.: 37,703  
JCReich/jle